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BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKETED

JUN 09 2000

CARL J. KUNASEK  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
WILLIAM A. MUNDELL  
COMMISSIONER

DOCKETED BY

RT

IN THE MATTER OF THE APPLICATION OF  
NETWORK COMMUNICATIONS  
INTERNATIONAL, INC. FOR A CERTIFICATE  
OF CONVENIENCE AND NECESSITY TO  
PROVIDE COMPETITIVE  
INTRALATA/INTERLATA RESOLD  
TELECOMMUNICATIONS SERVICES EXCEPT  
LOCAL EXCHANGE SERVICES.

DOCKET NO. T-03738A-99-0254

DECISION NO. 62631

**ORDER**

Open Meeting  
June 6 and 7, 2000  
Phoenix, Arizona

**BY THE COMMISSION:**

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On May 14, 1999, Network Communications International, Inc. ("Applicant") filed with Docket Control of the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive intraLATA and interLATA telecommunications services, except local exchange services, as a reseller within the State of Arizona.

2. In Decision No. 58926 (December 22, 1994), the Commission found that resold telecommunications providers ("resellers") were public service corporations subject to the jurisdiction of the Commission.

3. Applicant is a Texas corporation, authorized to do business in Arizona since 1998.

4. Applicant is a switchless reseller, which purchases telecommunications services from AT&T and CyTel.

5. On December 6, 1999, the Commissions Utilities Division Staff ("Staff") filed its Staff

1 Report.

2       6.     In the Staff Report, Staff stated that the Applicant provided financial statements as of  
3 December 31, 1998. These financial statements list assets of \$3.12 million, total liabilities of \$2.38  
4 million, retained earnings of \$811,289 and stockholders' equity totaling \$737,016. In addition, the  
5 Applicant had a net income of \$170,817 on total revenue of \$26.14 million. Based on the foregoing,  
6 Staff believes that Applicant does not appear to have adequate financial resources. Applicant filed a  
7 letter on November 15, 1999, stating that it does not currently, and will not in the future, charge its  
8 customers for any prepayments, advances or deposits. If at some future date, the Applicant wants to  
9 charge customers any prepayments, advances, or deposits, it must file information with the  
10 Commission that demonstrates the Applicant's financial viability. Staff believes that if the Applicant  
11 experiences financial difficulty, there should be minimal impact to its customers. Customers are able  
12 to dial another reseller or facilities-based provider to switch to another company.

13       7.     The Staff Report stated that Applicant has no market power and the reasonableness of  
14 its rates would be evaluated in a market with numerous competitors.

15       8.     Staff recommended that:

16           (a)   Applicant's application for a Certificate should be approved without a hearing  
17 pursuant to A.A.C. R14-2-1106B;

18           (b)   Applicant's intrastate toll service offerings should be classified as competitive  
19 pursuant to A.A.C. R14-2-1108;

20           (c)   Applicant's competitive services should be priced at the effective rates set  
21 forth in Applicant's tariffs and the maximum rates for these services should be the  
22 maximum rates proposed by Applicant in its tariffs. The minimum rates for the  
Applicant's competitive services should be Applicant's long run incremental costs of  
providing those services as set forth in A.A.C. R14-2-1109;

23           (d)   In the event that the Applicant states only one rate in its tariff for a competitive  
24 service, the rate stated should be the effective (actual) price to be charged for the  
service as well as the service's maximum rate; and

25           (e)   Applicant should be required to comply with the Commission's rules and  
26 modify its tariffs to conform with the rules if it is determined there is a conflict  
27 between Applicant's tariffs and the Commission's rules.

28       9.     By Procedural Order dated March 22, 2000, the Commission set a deadline of May 17,

1 2000, for filing exceptions to the Staff Report; requesting that a hearing be set; or requesting  
2 intervention as interested parties.

3 10. On May 19, 2000, the Applicant filed affidavits indicating that it published notice of  
4 its filing in all counties where service is to be provided.

5 11. No exceptions were filed to the Staff Report, nor did any party request that a hearing  
6 be set.

### 7 CONCLUSIONS OF LAW

8 1. Applicant is a public service corporation within the meaning of Article XV of the  
9 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

10 2. The Commission has jurisdiction over Applicant and the subject matter of the  
11 application.

12 3. Notice of the application was given in accordance with the law.

13 4. Applicant's provision of resold intrastate telecommunications services is in the public  
14 interest.

15 5. Applicant is a fit and proper entity to receive a Certificate for providing competitive  
16 intrastate telecommunications services as a reseller in Arizona.

17 6. Staff's recommendations in Findings of Fact No. 8 are reasonable and should be  
18 adopted.

### 19 ORDER

20 IT IS THEREFORE ORDERED that the Application of Network Communications  
21 International, Inc. for a Certificate of Convenience and Necessity for authority to provide competitive  
22 intraLATA and interLATA telecommunications services, except local exchange services, shall be,  
23 and the same is hereby granted, except that Network Communications International, Inc. shall not be  
24 authorized to charge customers any prepayments, advances, or deposits. In the future, if Network  
25 Communications International, Inc. desires to initiate such charges, it must file information with the  
26 Commission that demonstrates the Company's financial viability or establish an escrow account  
27 equal to the amount of any prepayments, advances or deposits. Staff shall review the information  
28 provided and file its recommendation concerning financial viability within thirty (30) days of receipt

of the financial information, for Commission approval.

IT IS FURTHER ORDERED that Network Communications International, Inc. shall comply with Staff recommendations set forth in Findings of Fact No. 8.

IT IS FURTHER ORDERED that Network Communications International, Inc. shall file modified tariffs within 30 days from the effective date of this Decision.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

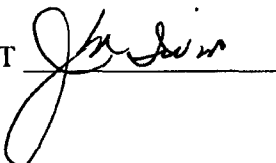
  
CHAIRMAN

  
COMMISSIONER

  
COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 9TH day of June, 2000.

  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT   
AG:bbs

1 SERVICE LIST FOR: NETWORK COMMUNICATIONS INTERNATIONAL, INC.

2 DOCKET NO.: T-03738A-99-0254

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